

# PPM 550

## SMALL BUSINESS ENTERPRISE (SBE) EMPLOYMENT OUTCOMES

Sect.

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### PURPOSE

- .00** The purpose of this chapter is to set forth Vocational Rehabilitation Services (VRS) policies and practices regarding the nature, scope, and limitations of vocational rehabilitation services provided for the establishment and start-up of small business enterprises (SBEs) as employment outcomes for eligible individuals.

### AUTHORITY

- .10** Unless otherwise specified, the policies and practices contained in this chapter are State agency imposed policies and practices.

### DEFINITIONS

- .20** The following terms are defined as they apply to this chapter.
- (1) ***Small business enterprise (SBE)*** means an employment outcome consisting of the practice of a profession, trade, craft or other skill performed in a business setting:
- (A) which—
- (1) is independently owned and operated business separate from and not subordinate to any other individual, business, or other entity in terms of its identity, organization, management, or daily operations,

(2) is the individual's primary employment and primary source of earned income,

(3) markets its products or services to customers rather than performs work for an employer, and

(4) is determined to have a reasonable potential for becoming a successfully self-sustaining business capable of generating sufficient revenues from its operations to—

(a) meet its own ongoing operating costs and

(b) provide personal income for the individual equal to or exceeding the greater of the minimum wage rate or the work earnings of other individuals similarly self-employed; and

(B) in which the individual is—

(1) a full or part owner of the enterprise,

(2) self-employed, performing work for him- or herself, rather than as an employee of another individual, business, or organization outside the enterprise, and

(3) directly engaged in and responsible for the ongoing management or management and daily operation of the enterprise, including decision-making with respect to the work performed, the products and/or services marketed and their pricing, and the distribution of the earnings generated from sales.

(2) ***Establishment and initial start-up costs*** are those costs that are necessary to establish a small business enterprise, initiate its business operations, and sustain such operations throughout an agreed-upon initial start-up period until the enterprise is stable and self-supporting, capable of meeting its own ongoing operating costs.

(3) ***Initial start-up period*** means the period of time (not to exceed 24 months, except with prior justification and approval of the Area

Supervisor) extending from the date on which actual business operations begin until:

(A) the date on which the revenues generated by the business from the sale of its own products and/or services equal or exceed the costs of continuing business operations (not including any withdrawals made by the individual or other principals) for the third consecutive month; or

(B) any other date established by the Individualized Plan for Employment (IPE) as the terminating point of the initial start-up period.

(4) ***Ongoing operating costs*** means the costs of continuing business operations after termination of the initial start-up period, including all costs of day-to-day business operations, as well as such costs as tool and equipment repair, replacement, and upgrading, business relocation, and business expansion.

## POLICY

### GENERAL POLICIES

#### .30 INFORMED CHOICE OF A SMALL BUSINESS ENTERPRISE (SBE) EMPLOYMENT OUTCOME

Self-employment as an owner-operator of a small business enterprise (SBE) is an allowable employment outcome category for which vocational rehabilitation assistance may be provided, to the extent that SBE ownership and operation is:

(1) the informed choice of an eligible individual, consistent with his or her primary employment factors (meaning the individual's employment strengths, resources, priorities, concerns, abilities, capabilities, and interests); and

(2) determined, based on a review and evaluation of a comprehensive written business plan, to have the potential for providing a feasible and commercially viable employment opportunity for the individual.

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**.31 ROLES AND RESPONSIBILITIES**

(1) The planning, financing, establishment, management, operation, and ultimate success or failure of an individual's SBE is his or her own responsibility. The individual's role is that of an entrepreneur. The role of the Vocational Rehabilitation Counselor and vocational rehabilitation program (and of all other participating individuals, agencies, and organizations) is solely to advise, assist, and support the efforts of the entrepreneur.

(2) The purpose of vocational rehabilitation program assistance for each small business enterprise is only to provide the initial assistance which is necessary to plan, establish, start up, and stabilize the enterprise. Vocational rehabilitation assistance must decrease progressively during the initial start-up period as the business itself assumes an increasing portion of its own ongoing operating costs, until all ongoing costs are met independently and vocational rehabilitation assistance is terminated.

**.32 PROHIBITED ACTIVITIES**

(1) The vocational rehabilitation program will not provide services to plan, establish, or assist any proposed small business enterprise that does not constitute an employment outcome that is designed, and can reasonably be expected, to maximize the individual's work, earnings, and financial independence. The following restrictions apply pursuant to this policy.

(A) (1) Vocational rehabilitation program services will not be provided to plan, establish, or assist as a self-employment outcome any hobby or other activity that is primarily recreational, therapeutic, or avocational in nature; however,

(2) vocational rehabilitation assistance may be authorized for the purpose of converting an established hobby or other activity into a small business enterprise, provided that, upon a review and evaluation of a comprehensive written business plan submitted by the individual, a determination can be made that—

(a) the hobby or other activity produces products or services that can reasonably be expected to be successfully marketed, and

(b) the services and assistance provided are limited to those determined to be specifically required to convert the hobby or other activity into a fully operational business concern that meets the requirements of a small business enterprise consistent with the definition in section 501.20(1) of this chapter.

(B) Vocational rehabilitation program services will not be provided to plan, establish, or assist any proposed self-employment outcome that would provide only part-time employment for the individual, unless the individual is specifically prevented from working full-time due to the nature or scope of his or her physical or mental impairment.

[AUTHORITY: Federal regulations, 34 CFR 361.5(b)(10).]

(C) Vocational rehabilitation program services will not be provided to plan, establish, or assist any self-employment outcome that constitutes a second job or second-income job, the purpose of which is to supplement the work earnings of the individual from other employment.

(D) Vocational rehabilitation program services will not be provided to plan, establish, or assist any self-employment outcome that:

(1) is purposely structured to limit earnings for the purpose of maintaining public assistance eligibility; or

(2) cannot reasonably be expected to provide income for the individual equal to or exceeding the greater of the minimum wage rate or the earnings of other individuals similarly self-employed by the termination of the initial start-up period.

[AUTHORITY: Federal regulations, 34 CFR 361.5(b)(10).]

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(E) Vocational rehabilitation program services will not be provided to plan, establish, or assist any self-employment outcome in which the work is not performed in an integrated work setting to the same extent that persons who do not have physical or mental impairments and are self-employed perform the same or similar types of work in integrated settings.

[AUTHORITY: Federal regulations, 34 CFR 361.5(b)(10).]

(2) Vocational rehabilitation services will not be provided to plan, establish, or assist any proposed small business enterprise that cannot reasonably be expected to meet all of the requirements for a self-employment small business enterprise, as defined under section 501.20(1) of this chapter, on or before the termination date of the initial start-up period.

(3) The vocational rehabilitation program will not provide services to plan, establish, or assist any small business enterprise that does not comply with all applicable federal, state, and local laws.

(4) The vocational rehabilitation program will not provide services to plan, establish, or assist any small business enterprise that:

(A) is speculative or high-risk in nature; or

(B) engages in the sale or distribution of firearms, alcoholic beverages, or gambling or adult entertainment products or services.

(5) Vocational rehabilitation program funds will not be authorized for the purchase of any existing business, in whole or in part.

(6) The vocational rehabilitation program will not provide services to plan, establish, or assist multiple small business enterprises for the same individual concurrently.

(7) Neither the Vocational Rehabilitation Counselor nor the vocational rehabilitation program are permitted, under any circumstances whatever, to:

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(A) be a principal of any SBE planned, established, or assisted with vocational rehabilitation funds; or

(B) assume any role, on a temporary or extended basis, in the management, supervision, or day-to-day operation of any such small business enterprise.

**.33 ASSUMPTION OF RISK**

Individuals pursuing a self-employment outcome must accept the personal and financial risks inherent in small business enterprise establishment and ownership. Neither vocational rehabilitation program approval of the individual's small business plan nor the provision of vocational rehabilitation services to assist the planning, establishment, start-up, and initial operation of an SBE constitutes any guarantee of business success or profitability.

***FINANCING REQUIREMENTS AND LIMITATIONS***

**.40 MULTIPLE FINANCING SOURCE REQUIREMENT**

Vocational Rehabilitation Services (VRS) will not be the sole source of financing for the establishment and initial start-up costs of any small business enterprise.

**.41 LIMITATIONS OF VOCATIONAL REHABILITATION ASSISTANCE**

(1) Establishment and initial start-up costs of a small business enterprise funded by vocational rehabilitation will typically not exceed the lesser of either:

(A) 75 percent of the individual's share of the establishment and initial start-up costs of the enterprise, the individual's share of the establishment and initial start-up costs being his or her percentage of ownership in the business; or

(B) \$30,000 in first-year costs, plus \$15,000 per each additional 12 months of the initial start-up period.

EXAMPLES: If the individual is the sole owner of the business, his or her ownership share in the enterprise and its establishment and initial start-up costs is 100 percent. In this example, a maximum of 75 percent of establishment and initial start-up costs, up to \$30,000 in the first year and \$15,000 in each subsequent year of the initial start-up period, may be met with vocational rehabilitation funds. If the individual is an equal partner in a business with two principals, then his or her ownership share in the enterprise and its establishment and initial start-up costs is 50 percent, three-quarters (37½ percent) of which is the maximum amount that may be met with VRS assistance, up to \$30,000 in first-year and \$15,000 in subsequent-year costs.

(2) These guidelines may be exceeded only with written justification and the prior approval of the Area Supervisor.

(3) The requirements of this section apply to the establishment and initial start-up costs of the business enterprise only, and do not include the costs of any other services provided, including any services provided:

(A) prior to establishment and initial start-up;

(B) concurrently to address the needs of the individual related to his or her physical or mental impairment but not attributable to the establishment and initial start-up of the SBE; or

(C) to complete any assessment for determining eligibility or any assessment for determining vocational rehabilitation needs, or to provide vocational counseling and guidance, information and referral services, job monitoring, follow-up, and follow-along, or assistive technology devices or services.

## **.42 FINANCIAL RESPONSIBILITIES OF THE INDIVIDUAL**

### **(1) THE INDIVIDUAL'S SHARE OF ESTABLISHMENT AND INITIAL START-UP COSTS**

The individual is responsible for funding, or for financing from third-party resources:

(A) the remaining 25 percent of his or her share of establishment and initial start-up costs; and



(B) (unless additional costs have been justified and approved by the Area Supervisor in accordance with section 501.41(2) of this chapter) all establishment and initial start-up costs exceeding \$30,000 in the first year and \$15,000 in each subsequent year of the initial start-up period.

(2) SOURCES FOR MEETING THE INDIVIDUAL'S SHARE

The individual's share of establishment and initial start-up costs may be met, wholly or in part, through:

(A) cash or other assets (such as tools and equipment) contributed by the individual or family members to the business;

(B) Social Security work incentives, workers' compensation, unemployment, or other benefits received by the individual and committed to the business;

(C) federal, state, and local grants, subsidies, and other assistance available from small business development, minority business, economic development, urban renewal, enterprise zone, and similar programs;

(D) capital obtained from private investors; or

(E) loans secured from the Small Business Administration (SBA), a commercial lending institution, or other sources.

(3) REQUIREMENT TO IDENTIFY AND UTILIZE THIRD-PARTY RESOURCES

Individuals pursuing self-employment outcomes will thoroughly explore all third-party financing sources as part of the development of a comprehensive written business plan. Third-party sources for every SBE must be sought, secured, and utilized to the maximum extent possible prior to the commitment of vocational rehabilitation funds for the establishment and initial start-up costs of any small business enterprise.

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**.43 USE OF BUSINESS EARNINGS DURING THE INITIAL START-UP PERIOD**

Earnings from business activities during the initial start-up period (excluding any agreed-upon withdrawal amounts for the individual and/or other principals) must be applied to the continuing costs of business operations:

(1) first, to meet any continuing costs (e.g., employee salaries and benefits, set-asides for tool and equipment replacement and upgrading and other purposes, small business loan payments, etc.) that cannot be paid for with vocational rehabilitation assistance or other available funds; and

(2) second, to assume the continuing costs being paid for with vocational rehabilitation program assistance, so as to decrease the financial participation of the program in maintaining the business enterprise.

**.44 COSTS EXCEEDING PROJECTED AMOUNTS**

(1) The cost participation guidelines established by sections 501.40 through 501.43 of this chapter must be applied to any costs not otherwise foreseen or planned for that arise during the establishment of the business enterprise and its initial start-up period.

(2) (A) Unexpected needs which necessitate the provision of previously unplanned services or which otherwise increase vocational rehabilitation program costs for establishment and initial start-up services by 15 percent or less of the amounts originally anticipated and planned for may be approved by the Vocational Rehabilitation Counselor upon written justification entered into the Counselor Work Record.

(B) Establishment and initial start-up costs which exceed amounts originally anticipated in the written business plan and provided for in the individual's IPE by more than 15 percent must be submitted to the Area Supervisor for prior approval.

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(3) The addition of services unspecified by the IPE may necessitate further IPE amendments, in accordance with applicable agency policies and procedures.

***COORDINATION REQUIREMENTS***

**.50 SOCIAL SECURITY WORK INCENTIVES**

Social Security work incentives, including any Plan for Achieving Self Support (PASS), Impairment Related Work Expense (IRWE), and other incentives, must be utilized to the maximum extent that they are available to the individual and applicable to the proposed business enterprise. The use of all such incentives must be carefully coordinated with appropriate Social Security Administration (SSA) officials.

**.51 WORKERS' COMPENSATION**

Workers' Compensation claimants pursuing self employment must comply with all requirements of the workers' compensation program regarding the development and funding of any small business enterprise prior to any utilization of such benefits to fund the establishment and initial start-up costs of any small business enterprise.

**.52 WORKFORCE INVESTMENT SYSTEM**

The self-employment efforts of the individual must be coordinated with appropriate components of the Workforce Investment System prior to the utilization of Workforce Investment System services or unemployment compensation benefits to meet the establishment and initial start-up costs of any small business enterprise.

***VOCATIONAL REHABILITATION SERVICE PROVISION***

**.60 APPLICABILITY OF OTHER POLICIES AND REQUIRMENTS**

Vocational rehabilitation services provided to plan, establish, and assist an SBE are subject to the same conditions and limitations that apply to the provision of such services pursuant to any other employment

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outcome. Applicable program policies and practices include, but are not limited to, all policies and practices pertaining to:

- (1) service and service provider standards;
- (2) comparable services and benefits;
- (3) student financial aid requirements applicable to all post-secondary training; and
- (4) price quote requirements, fee schedules, and service cost guidelines.

**.61 SERVICE PROVISION DURING A COMPREHENSIVE ASSESSMENT**

(1) For each eligible individual considering an employment outcome of small business ownership and operation, the comprehensive assessment for determining vocational rehabilitation needs must, to the degree appropriate and necessary:

(A) explore SBE ownership and operation as a potential employment outcome for the individual and its suitability to his or her primary employment factors;

(B) facilitate an informed choice by the individual of employment to be pursued, whether for self-employment or another outcome; and

(C) develop an initial Individualized Plan for Employment (IPE) that provides for all services needed preparatory to small business enterprise establishment and start-up in accordance with section 501.62 of this chapter.

(2) As determined to be appropriate and necessary for each individual, services provided during the comprehensive assessment must include services pertinent to small business enterprise ownership and operation, including, but not limited to, small business enterprise specific:

(A) vocational counseling and guidance;

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(B) information and referral services; and

(C) initial consultation, technical assistance, training, and other services, available through programs of the Small Business Administration (SBA), Small Business Development Center (SBDC), Service Corps Of Retired Executives (SCORE), Indiana Small Business Development Corporation (ISBD Corp), or other similar program qualified to provide professional guidance regarding the commercial feasibility of the individual's business idea, assess the individual's preparedness for small business enterprise ownership and operation, and recommend further training.

(3) Services specific to assessing the small business enterprise opportunities of the individual must be provided in addition to any other services provided as part of the comprehensive assessment for determining vocational rehabilitation needs.

(4) Vocational rehabilitation services cannot be provided during the comprehensive assessment for determining vocational rehabilitation needs to establish or start up any small business enterprise.

**.62 SERVICE PROVISION UNDER AN INITIAL IPE**

(1) For individuals who have made an informed choice to pursue small business enterprise ownership and operation, an initial Individualized Plan for Employment (IPE) must be developed that allows for the provision of services identified during the comprehensive assessment for determining vocational rehabilitation needs as being appropriate and necessary to prepare and qualify the individual for achieving the self-employment outcome of choice.

(2) Vocational rehabilitation services authorized under an initial IPE may:

(A) provide any preparatory academic, vocational, on-the-job, or other training determined by the individual and the Vocational Rehabilitation Counselor to be needed for the individual to—

(1) acquire, develop, maintain, or improve occupational knowledge, skills, experience, or performance specific to the products and/or services to be marketed by the proposed business,

(2) qualify for any professional, trade, or other license, certification, or other credentials required to operate the planned business enterprise or perform the type of work being considered, and/or

(3) acquire or upgrade knowledge and skills pertinent to successful small business enterprise ownership and operation;

(B) secure any additional consultation and technical assistance needed preparatory to the establishment and start-up of the proposed SBE, including consultation and technical assistance needed to—

(1) conduct a market analysis,

(2) develop a comprehensive written business plan, and

(3) obtain alternative financing and other assistance;

(C) develop an unsigned IPE proposed amendment that identifies as to be provided those vocational rehabilitation services needed to meet the specific establishment and initial start-up costs of the planned business enterprise identified in the comprehensive written business plan; and

(D) review and evaluate the comprehensive written business plan and proposed IPE amendment submitted by the individual, and make a formal determination for their approval or disapproval.

## **.63 COMPREHENSIVE WRITTEN BUSINESS PLAN REQUIREMENTS**

(1) A comprehensive written business plan must be developed for all self-employment outcomes. No vocational rehabilitation funds will be authorized for the actual establishment and start-up of any self-employment small business enterprise until the comprehensive written

business plan has been presented for agency review and approval and formal approval has been granted in accordance with the policies and practices specified in this chapter. An approved business plan is required for all self-employment outcomes, regardless of the type of self-employment operation planned, its size, the products or services to be marketed, the qualifications of the individual or any other principal, or the amount of vocational rehabilitation program assistance being requested.

(2) The comprehensive written business plan must meet all agency requirements with respect to form and content.

#### **.64 IPE AMENDMENT**

The unsigned IPE proposed amendment must be submitted for review and approval, together with the comprehensive written business plan. In addition to all other requirements specified elsewhere in agency policy and practice with regard to IPE development and content, the IPE amendment for a small business enterprise employment outcome must clearly identify:

(1) the specific type of self-employment outcome to be achieved (for example, "Self-employed owner/operator, locksmithing small business");

(2) the vocational rehabilitation services to be provided to meet the establishment and initial start-up costs of the small business enterprise, and the initiation date for each service;

(3) the service provider chosen by the individual for each service, and the methods that will be used to secure each service;

(4) the criteria that will be utilized to evaluate progress toward achievement of the self-employment outcome specified, including the agreed-upon duration of the initial start-up period and the criteria that will be used to determine when and how each category of operating costs will be transferred to the enterprise and vocational rehabilitation assistance diminished and ultimately terminated; and

(5) the respective responsibilities of the individual, the vocational

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rehabilitation program, and any other participating entities with regard to the IPE, including the responsibilities of the individual to pay for or finance any services provided, in whole or in part.

**.65 ESTABLISHMENT AND INITIAL START-UP SERVICES**

**(1) GENERAL REQUIREMENTS**

(A) Establishment and initial start-up services will be provided only in accordance with a comprehensive written business plan and an Individualized Plan for Employment (IPE) amendment in which such services are specified as to be provided, consistent with the policies and practices specified in this chapter.

[AUTHORITY: Section 101(a)(9)(B) of the Act, as amended; 29 USC 721(a)(9)(B).]

(B) All services provided to plan, establish, start up, and assist a self-employment small business enterprise must be provided in the most integrated setting possible, consistent with the informed choice of the individual.

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(7)(iii).]

(C) Establishment and initial start-up services can be authorized from vocational rehabilitation funds only to the extent that the costs of such services cannot be met:

(1) through the maximum utilization of available comparable services and benefits;

[AUTHORITY: Federal regulations, 34 CFR 361.53.]

(2) from personal or family savings or assets, or other resources that have been committed to the business enterprise, in accordance with section 501.42 of this chapter; or

(3) from revenues generated by the business itself from the sale of its products or services, in accordance with sections 501.31(2) and 501.43 of this chapter.

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(2) SERVICES PERMITTED

Vocational rehabilitation services provided to meet the establishment and initial start-up costs of an approved small business enterprise may include, as appropriate and necessary:

(A) professional, business, trade, or other licenses, certificates, permits, registrations, or other credentials required as a condition for conducting business (including any applicable inspection, examination, and issuance fees);

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(17).]

(B) professional, business, trade, or other organizational memberships, if required as a condition for doing business;

(C) lease or rental costs of business space needed for business operations, if space is required outside the individual's home;

(D) preparation of the business site for occupancy and business operations, including, but not limited to, alterations of the site to provide necessary sales/display, production, storage, and office facilities and the provision of needed fixtures and furnishings, exterior and interior signs, and accommodative modifications, to the extent that such alterations and modifications are—

(1) not the responsibility of the property owner,

(2) permitted under the terms of the lease or rental agreement or other written terms signed by the property owner, and

(3) in compliance with all local constructions and health and safety codes;

(E) necessary occupational tools and business equipment, including maintenance and repair agreements on business equipment;

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(17).]

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(F) necessary assistive technology devices and services specifically applicable to the planned business and its operation;

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(18).]

(G) initial and turnover stocks of raw materials and product inventories;

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(17).]

(H) general supplies, such as cleaning supplies, operating supplies needed for business equipment, and similar consumables;

[AUTHORITY: Federal regulations, 34 CFR 361.48(a)(17).]

(I) business utilities (electric, gas, oil, water, and telephone services), including installation and hook-up charges and subsequent monthly or periodic service billings;

(J) subscription services (such as Internet services subscriptions) necessary to conduct business operations;

(K) necessary services purchased or contracted for by the business from outside sources (such as legal, bookkeeping and accounting, tax preparation, trash and snow removal, grounds and housekeeping, and similar services);

(L) any additional consultation and technical assistance needed to establish and start-up the small business enterprise;

[AUTHORITY: Section 103(a)(13) of the Act, as amended; 29 USC 723(a)(13).]

(M) marketing and advertising costs, including the costs of marketing consultation, media advertising, business cards, and printing and postage;

(N) insurance costs specific to the business and its operations, including fire, theft, and liability insurance, to the extent that such insurance is not the responsibility of the property owner;

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(O) bonding fees, if required as a condition for conducting the business operations of the enterprise;

(P) follow-along and monitoring throughout the initial start-up period, to—

(1) assure that the goals and objectives identified in the business plan and the IPE are being met and that the enterprise is making satisfactory progress toward achieving financial stability and independence,

(2) secure outside consultation and technical assistance, if needed to identify and resolve management and operating problems, and

(3) determine the appropriate timing for assumption of continuing costs of operation by the business and for termination of vocational rehabilitation services and closure of the individual's record of services; and

(Q) other services not elsewhere prohibited, if determined to be directly related to and necessary for the establishment of the enterprise or its continuing operations during the initial start-up period.

(3) PROHIBITED SERVICES

(A) Vocational rehabilitation program funds cannot be provided for:

(1) operating capital, including, but not limited to, any form of cash reserve or set-aside;

(2) the purchase of accounts receivable or business "goodwill;"

(3) the payment or refinancing of existing debt, whether personal or business related;

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(4) any public or private offering of preferred or common stock, bonds, or other investment instrument;

(5) any security or other deposit (such as lease, rental, utility, or other deposit) that is refundable to the individual or the business;

(6) salaries or benefits for the individual or any other owner/principal or employee of the business;

(7) any costs incurred by the individual or the business as a consequence of collective bargaining activities on the part of employees;

(8) personal or business taxes of any kind, including income and sales tax withholdings, interest, or penalties;

(9) the purchase of land or the purchase or erection of any building or other permanent structure;

[AUTHORITY: Federal regulations, 34 CFR 76.533 and 80.3.]

(10) the purchase, lease, rental, general maintenance, or repair of any motor vehicle requiring registration and operator licensing under state law for personal or business use, or the provision of any related services (such as the costs of vehicle titles, plates, or insurance);

(11) any costs associated with securing, renewing, or litigating a patent, copyright, or registered trade name or trademark;

(12) any action undertaken by the business enterprise to collect delinquent debts from its customers, including securing the services of a collection agent or the pursuit of legal remedies;

(13) any cost associated with product or services liability arbitration or litigation, including, but not limited to, the costs of any settlement or judgment; or

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(14) any costs arising from personal or business bankruptcy or business dissolution, except to the extent required to defend the ownership interest of the vocational rehabilitation program in any tools, equipment, or other assets purchased with agency funds for which ownership has not yet been transferred to the individual or the business enterprise.

(B) Subsequent to the initial start-up period, vocational rehabilitation funds cannot be authorized for any ongoing operating costs of the business, including the costs of day-to-day business operations as well as such costs as tool and equipment replacement and upgrading, business relocation, and business expansion.

(C) The vocational rehabilitation program will not participate in any financial bail-out to inject cash or other subsidies into a troubled or failing business.

### ***CLOSURE OF THE RECORD OF SERVICES***

## **.70 INDIVIDUALS DETERMINED TO HAVE BEEN REHABILITATED**

(1) An individual receiving vocational rehabilitation services under this chapter will be determined to have been rehabilitated, the record of services for the individual will be closed, and further assistance terminated:

(A) when the criteria for determining that the individual has been successfully rehabilitated have been met, in accordance with chapter 480 of this manual; and

[AUTHORITY: Federal regulations, 34 CFR 361.56.]

(B) at the end of the agreed-upon initial start-up period, as defined in section 501.20(3) of this chapter and specified in the individual's IPE.

(2) Prior to final closure as rehabilitated, audited financial statements must be submitted by the individual which verify that the revenues being generated by the business equal or exceed its ongoing operating costs,

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not including any withdrawals made by the individual or other principals.

**.71 INDIVIDUALS DETERMINED NOT TO HAVE BEEN REHABILITATED**

Individuals not meeting the criteria specified in section 501.70 of this chapter and not pursuing any other employment outcome will be determined not to have been rehabilitated.

***POST-EMPLOYMENT SERVICES PROVISION***

**.80 GENERAL PROVISIONS**

Vocational rehabilitation services may be provided as post-employment services subsequent to the closure of the individual's record of services to help businesses that have been established with agency assistance but which are experiencing difficulties obtain needed consultation and technical assistance, secure third-party financial support, or address other problems, to the extent permitted by agency policy.

**.81 SPECIAL REQUIREMENTS**

All post-employment services provided must comply with the policies and practices expressed in this chapter, particularly with respect to the prohibitions on certain services specified in sections 501.65(3)(A), (B), and (C).

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## PRACTICES

### **.90 INITIAL DISCUSSION**

All discussions regarding possible employment outcomes for each individual must include a discussion of small business enterprise ownership and operation as an available employment outcome option. Such discussions must be initiated as early as possible during application and the assessment for determining eligibility, and must present self employment as an option available to every individual which he or she may choose, consistent with his or her primary employment factors.

### **.91 MAXIMUM UTILIZATION OF OTHER QUALIFIED RESOURCES**

(1) Small Business Administration (SBA), Small Business Development Center (SBDC), Service Corps Of Retired Executives (SCORE), Indiana Small Business Development Corporation (ISBD Corp), local Chambers of Commerce, and other appropriately qualified and available resources must be utilized throughout the individual's participation in the vocational rehabilitation program to the maximum extent possible. Such programs are excellent sources of:

(A) general information, counseling, guidance, consultation, and technical assistance specific to small business enterprise ownership and operation needs;

(B) short-term training in particular aspects of small business enterprise ownership and operation;

(C) assistance for developing comprehensive written business plans;

(D) information regarding potential third-party financing resources; and

(E) professional expertise necessary to help assess the soundness and commercial potential of the planned business enterprise.

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(2) Referral for counseling, guidance, consultation, technical assistance, and other services provided by or through SBA, SBDC, ISBD Corp, Chamber of Commerce, and similar sources is to be made at the earliest possible opportunity.

**.92 OTHER RESOURCES AND REFERENCE MATERIALS**

(1)

## Section deleted

(2) Independent study materials regarding small business enterprise ownership, how to write a business plan, and issues pertinent to small business operation can also be obtained from local public libraries.

**.93 REVIEW AND APPROVAL OF THE COMPREHENSIVE WRITTEN BUSINESS PLAN**

(1) REVIEW AND APPROVAL REQUIREMENT

(A) Each small business enterprise proposal must be submitted for review and approval by a local review and evaluation committee.

(B) The proposal submitted must include a comprehensive written business plan and an unsigned IPE proposed amendment.

(C) The local committee will review and evaluate each proposal submitted, and will make a recommendation for approval or disapproval of the proposal to the VRS Area Supervisor.

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(D) The recommendation of the committee will note the reasons for the recommendation.

(E) The approval or disapproval decision for any self-employment small business enterprise proposal will be made by the VRS Area Supervisor.

(F) Any disapproval decision made by the Area Supervisor must be communicated to the individual or the individual's representative promptly and in writing, supplemented, as needed, by appropriate modes of communication.

(G) If the proposal is disapproved by the Area Supervisor:

(1) the proposal may be amended by the individual, according to the recommendations of the committee and Area Supervisor, and resubmitted to the local review and evaluation committee for reconsideration; or

(2) the disapproval decision may be appealed by the individual or the individual's representative for a review of the determination, in accordance with vocational rehabilitation agency appeal procedures.

## (2) COMPOSITION OF THE LOCAL REVIEW AND EVALUATION COMMITTEE

Each local review and evaluation committee must, minimally, include:

(A) the Vocational Rehabilitation Counselor, who will chair the committee and be responsible for reviewing and evaluating the proposal to assure that it—

(1) conforms to agency policies and practices, and

(2) adequately addresses all disability-related issues pertinent to the proposed business venture;

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(B) a representative (at least one) of the Small Business Administration (SBA), the local Small Business Development Center (SBDC), the Service Corps Of Retired Executives (SCORE), the Indiana Small Business Development Corporation (ISBD Corp), or other appropriate agency or organization qualified to—

(1) determine that the proposal (and, in particular, its business plan component) adequately addresses all pertinent business-related issues, and

(2) assess the commercial feasibility of the proposed business;

(C) any other individuals (legal, marketing, and other professionals), organizations, agencies, or programs from whom or which consultation and technical assistance services have been purchased or obtained, to assure that the overall proposal and the business plan in particular adequately address the issues within their respective areas of professional expertise;

(D) if Social Security work incentives, workers' compensation, unemployment benefit, or other programs are to be utilized to finance the proposed business enterprise, an individual familiar with them and their use, to assure that pertinent rules of the applicable programs are adhered to;

(E) a representative of any other organization, agency, or program that is a planned provider of financial, consultation and technical assistance, or other services or assistance for the establishment and start-up of the proposed business venture, to assure that the proposal and comprehensive written business plan are adequate to qualify the individual for the assistance being sought;

(F) any other individual, agency, or program that will provide ongoing mentoring or other community-based supports; and

(G) any other interested individual, agency, or program qualified to assess the merits of the individual's business plan and its potential.

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(3) OTHER REQUIREMENTS REGARDING LOCAL COMMITTEES

The local review and evaluation committee:

(A) may be established on a Region or Area basis, as determined to be appropriate in each VRS Region;

(B) must meet as frequently as may be needed to assure that each small business venture proposal received is reviewed and evaluated on a timely basis and that the recommendation of the committee is made to the Areas Supervisor regarding the approval or disapproval of each proposal within 30 days of its submission for consideration;

(C) must provide an opportunity for the participation of the individual and, if appropriate, the individual's representative; and

(D) must conduct its meetings on dates and at times and locations that are accessible to all participants, and with sufficient prior notification to permit attendance by all participants.

**.94 IPE AMENDMENT IMPLEMENTATION**

The unsigned IPE amendment submitted as part of the self-employment small business enterprise proposal will be signed and implemented as soon as possible following approval of the proposal by the Area Supervisor.

**.95 COUNSELOR RESPONSIBILITIES FOR MONITORING, FOLLOW-ALONG AND FOLLOWUP DURING THE INITIAL START-UP PERIOD**

(1) The Vocational Rehabilitation Counselor is responsible for monitoring the progress of the business toward achieving stability and self-sufficiency throughout the initial start-up period. Monitoring must include:

(A) counselor contact with the individual by telephone and/or on-site visits to the business of sufficient frequency to meet the needs of the individual and assess the progress of the business;

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(B) submission to the counselor for review of complete and accurate quarterly financial statements for the business;

(C) referral for appropriate consultation and technical assistance to identify, evaluate, and resolve any problems that occur with respect to business management or operation, including—

(1) consultation and technical assistance provided by a representative of the SBDC, SCORE, ISBD Corp, or other appropriate individual, organization, or agency, or,

(2) if necessary, paid consultation and technical assistance provided by an attorney, accountant, management consultant, marketing consultant, or other professional; and

(D) continuation of appropriate and necessary vocational rehabilitation services, in accordance with the IPE.

(2) The responsibilities of the Vocational Rehabilitation Counselor during the initial start-up period are to assure that:

(A) the required contacts and/or on-site visits, reviews of the financial statements submitted, prescribed referrals, and continuation of appropriate and necessary vocational rehabilitation services occur, as specified;

(B) any tools, equipment, and other goods that have been purchased with agency funds and for which the agency retains ownership are present and accounted for, in working order, and continue to be utilized in business operations for the purposes intended;

(C) initial start-up costs that can be paid for from business revenues are assumed by the business as soon as reasonably possible, without jeopardizing its stability, and that agency financial participation in continuing operation costs is decreasing and being phased out, as anticipated and planned; and

(D) other targeted goals and objectives for the business enterprise

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are being satisfactorily met, in accordance with the written business plan and the IPE.

**.96 OWNERSHIP AND DISPOSITION OF TOOLS AND EQUIPMENT**

(1) (A) Except as permitted under paragraph (1)(B) of this section, all tools, equipment, and other non-perishable goods (other than supplies of raw materials and product inventories for sale) purchased with vocational rehabilitation funds will remain the property of the vocational rehabilitation program until successful closure, at which time ownership will be legally transferred to the business.

(B) Upon agreement of the individual, Vocational Rehabilitation Counselor, and Area Supervisor, ownership may be legally transferred to the business prior to successful closure, if:

(1) the tools, equipment, or other non-consumable goods are needed as collateral to obtain a business loan; and

(2) the amount of the loan is needed, and will be applied solely and in full, to meet the costs of continuing business operations.

(2) The individual will be required to sign a written agreement which:

(A) specifically identifies all tools, equipment, or other non-perishable goods (other than supplies of raw materials or product inventories for sale) purchased with vocational rehabilitation funds;

(B) acknowledges the vocational rehabilitation agency as sole owner of all such goods until ownership is legally transferred by the agency to the business; and

(C) assures that, until such time as ownership is so transferred, the individual or business will—

(1) utilize all such goods only for those purposes for which they have been provided,

(2) secure, maintain, and repair all such goods, as appropriate and necessary to keep them in working order,

(3) not attempt to sell, gift, lease, sub-contract, or otherwise transfer ownership, possession, control, or use of any such goods without the express written permission of the vocational rehabilitation agency, and

(4) notify the vocational rehabilitation agency promptly if any such goods are no longer needed or useable; and

(D) acknowledges the right of the vocational rehabilitation program to reclaim and take possession of such goods in the event that:

(1) the business enterprise fails or the individual's record of services is otherwise closed as not rehabilitated, or

(2) the terms of the written agreement acknowledging agency ownership until legal transfer are breached by the individual or the business.

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